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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/938,913  | 08/24/2001  | Gunter Knepe         | HM-244DIV           | 3771             |
| 7590 12/14/2005   |             |                      | EXAMINER            |                  |
| Friedrich Kueffner<br>317 Madison Avenue<br>Suite 910<br>New York, NY 10017 |             |                      | TRINH, MINH N       |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 3729                |                  |

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/938,913

Applicant(s)

KNEPPE ET AL.

Examiner

Minh Trinh

Art Unit

3729

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 09/177,300.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's RCE submission filed on 6/27/05 has been entered.

### ***Claim Objections***

2. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claim 1 been renumbered 35.

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claim 35 is under 35 U.S.C. 103(a) as obvious over A.W. Metzner et al (US 1,466,001) in view of Niitsuma et al (5,048,387).

Metzner et al disclose a cutting apparatus comprising a knife drum 19 and a counter-drum 18 located opposite the knife drum, at least one knife having a knife

Art Unit: 3729

cutting edge 26 (see Fig. 6) mounted on the knife drum 19, the counter-drum 18 having a surface portion acting as an anvil 21 and interacting with the knife, at least one drive unit 9 for accelerating the drums to a speed corresponding to a feeding speed of a rolled strip 11 to be cut, and at least one of the drums having a separate adjusting device for adjusting the drums relative to each other for carrying out a cut (see Figs 1, 5 and 6, i.e., Fig. 5 that depicts a dual drums 18 and 19), the knife drum 19 having a cutting circle (=circumference of roll 19), wherein the knife is mounted so as to protrude beyond the cutting circle towards the anvil of the counter-drum 18 (see Fig. 6), and wherein the knife drum with the unyieldingly supported knife is mounted on a link 5, the knife drum with the yieldingly held link 5, which cooperates with the adjusting device 4b or 4a). Regarding the drums being interchangeable or "exchangeable for one another" as broadly claimed by the instant application. Since, Metzner et al discloses where the knife drum and the anvil drum 18 and 19 are being same size and shape therefore they are exchangeable for one another. Metzner et al however is silent about the adjusting device being supported against a spring element with a predetermine restoring force. Niitsuma et al teach the feature as discussed above (see Figs. 1-2, 7-8 of Niitsuma, depicts the adjusting device that support against a spring element with a predetermine restoring force). Therefore, It would have been obvious to one ordinary skill in the art, at the time of the invention was made to employ the Niitsuma's teaching as described above onto the structure invention of Metzner et al in order to form a desired cutting structure, the motivation for this combination is disclosed by Niitsuma (see the discussion at col. 3, lines 1-15+).

***Response to Arguments***

5. Applicant's arguments have been fully considered and are persuasive. Therefore, the rejection set forth in prior Office Action has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made

***Prior Art References***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Prior art references are cited for their teaching of drum cutting devices.

***Conclusion***

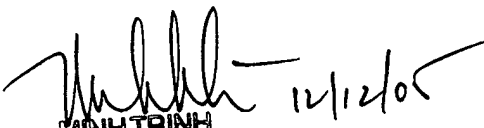
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh Trinh whose telephone number is (571) 272-4569. The examiner can normally be reached on Monday -Thursday 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3729

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mt  
12/12/05

  
MINH TRINH  
PRIMARY EXAMINER